

**ORDINANCE NO. 2  
SERIES 2001**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING CHAPTER 15 OF THE CITY CODE OF THE CITY OF GUNNISON, THE LAND DEVELOPMENT CODE, ADDING REGULATIONS REGARDING A PLANNED UNIT DEVELOPMENT ZONE DISTRICT TO ALLOW FOR PLANNED DEVELOPMENT IN SPECIFIC AREAS.**

**WHEREAS**, the City of Gunnison has petitioned to amend its Land Development Code so as to provide for a planned unit development zone district and specify standards by which such a district could be established; and

**WHEREAS**, a Planned Unit Development Zone District provides developers of large and/or unique sites with the ability to further restrict land uses and vary site development standards; and, provides the City with more community benefits in return for the ability to create a Planned Unit Development Zone; and

**WHEREAS**, a Planned Unit Development is a common planning tool used by many municipalities to provide for better development; and

**WHEREAS**, the Planning Commission of the City of Gunnison held a workshop on such request on November 30, and public hearings on such request on December 14, 2000, and January 10, 2001; and the City Council of the City of Gunnison held a public hearing on such request on February 27, 2001.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:**

Section 1. Findings of Fact. Based upon the testimony received at the public hearing and the recommendation of the Planning Commission of the City of Gunnison, the City Council of the City of Gunnison makes the following findings of fact:

A. The amendment to the Land Development Code to add a Planned Unit Development Zone District is consistent with the purposes of the Land Development Code.

B. The proposed amendment does not conflict with any other applicable provisions of the Land Development Code, except as amended in this ordinance.

C. The addition of a Planned Unit Development Zone District is consistent with the Master Plan, and shall aid in the implementation of the Master Plan by providing for higher quality development within the City of Gunnison.

D. The proposed amendment shall preserve the public health, safety, and general welfare, and environment, and contribute to the orderly development of the City.

Section 2. Chapter 15, Article 5, Section 15-5-1, of the City Code of the City of Gunnison, is hereby amended as follows:

12. Planned Unit Development District.

Section 3. Chapter 15, Article 6, Section 1, of the City Code of the City of Gunnison, is hereby amended to read as follows:

**15-6-1 General.** This Article specifies the purpose and intent of the zone districts established by this Land Development Code. The zone districts have been organized into broad district classifications, these being residential, business, commercial, industrial, Western State College, zone district overlays and Planned Unit Development.

Section 4. Chapter 15, Article 6, of the City Code of the City of Gunnison, is hereby amended by the addition of a new Subsection 6, as follows:

**15-6-6 Planned Unit Development.**

A. Purpose. A Planned Unit Development (P.U.D.) is a land area such that varying land uses and innovative design and layout of the development provide significant benefits to both the developer and the City over standard, uniform lot and block patterns and design. Such benefits include the provision of open space for the benefit of the residents and other users, the conservation of natural landscape features, provision of affordable housing, employment opportunities, variety in land use patterns and more efficient provision of services and utilities.

In a P.U.D., the various land use elements are designed so that they interrelate cohesively with each other; therefore, strict application of standard zone district regulations becomes unnecessary, and instead, other specific design requirements are included in the P.U.D. The boundary between the P.U.D. and adjacent zone districts requires particular attention to ensure that land use patterns are compatible. To enable a more thorough analysis of a P.U.D., more information is required about the proposal than would be required if development were being pursued within conventional zoning districts.

The approval of a P.U.D. constitutes a zone district amendment and is established by rezoning an area in an existing zone district to P.U.D. zoning or by initial zoning of newly annexed territory to P.U.D. zoning.

A P.U.D. proposal must meet the majority, but not all, of the following specific purposes:

The purpose of a P.U.D. is:

1. To encourage innovation in residential, commercial and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of open space;
2. To encourage land development that, to the greatest extent possible, preserves natural vegetation; respects natural topographic and geologic conditions; incorporates the unique, natural and scenic features of the landscape; and refrains from adversely affecting flood corridors, soil, drainage, and other natural ecological conditions;
3. To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner;
4. To allow efficient design and use of solar access;
5. To provide for adequate, accessible, and properly located open and recreation space, schools or other facilities;
6. To provide for necessary commercial, recreational, cultural, transportation and education facilities conveniently located to housing;

7. To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources;
8. To enable new land developments to be compatible with adjacent and nearby land developments.
9. To ensure that development takes account of environmentally sensitive areas, and occurs on land physically suited to construction;
10. To allow unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community and achieves beneficial relationships with the surrounding area; and
11. To create a method for the permanent preservation of historic buildings, landmarks and/or sites.

B. Applicability. The proposed P.U.D. zone district site must be under single ownership and/or modified control. A P.U.D. zone district application is considered a zoning map amendment under this Land Development Code.

C. Standards. Every P.U.D. shall be in conformance with the Municipal Code, the City Master Plan and other adopted plans. Design and layout requirements otherwise applicable to the development and zone district regulations may be varied within a P.U.D. where the variation will produce a benefit to the community over traditional zone district standards. The following standards and requirements shall apply to all P.U.D. zone districts:

1. Land Use District Designations. Every P.U.D. shall be divided into one or more land use districts with one or more of the following designations:

- R-1 Single Family Residential District
- R-1M Modified Single Family Residential District
- R-2 Duplex Residential District
- R-2M Duplex/Multi-Family Residential District
- R-3 Multi-Family Residential District
- B-1 Professional Business District
- C Commercial District
- I Industrial District
- EO Entrance Overlay District
- O Open Space District

Names of P.U.D. land use districts may be slightly modified to more accurately describe the primary character of the land use categories included within them. The specific land use district designation shall contain the appropriate range of uses allowed in the land use district and maximum building density allowed.

2. Open Space Land Use District. For the purpose of a P.U.D. zone district only, an "O - Open Space" land use district may be used for the purpose of defining areas with a P.U.D. zone district to be used for either public or private open space and recreation uses. Within a P.U.D. zone district, open space land use districts shall be limited to indoor and outdoor recreation and community facilities characterized by potentially light or moderate impacts on traffic, the natural environment, and the surrounding neighborhood. Such

athletic fields, skateboard park, swimming, bathing, wading and other therapeutic facilities; tennis, handball, and basketball courts, ice skating rink. Open space land use districts may also include natural areas such as public parks, trails, greenbelts, or natural land preservation areas. Open space land areas may not be used for high intensity commercial recreation such as aerial tramways; alpine or water slides; amusement rides; auto, cycle and go-cart race tracks; campgrounds; stadiums; drive-in theaters; horse or dog racing tracks; shooting ranges; stables; zoos or other similar commercial recreation uses.

3. Land Use District Uses. Specific uses permitted within a P.U.D. zone land use district must be of a type and so located as to be compatible with surrounding neighborhoods, community character and the City Master Plan and other adopted plans. Uses proposed must be compatible with the area of the proposed project and shall not be detrimental to the public health, welfare or safety, nor substantially diminish or impair property values in the neighborhood in which the P.U.D. is to be located. The uses potentially allowed within any P.U.D. zone land use district shall be appropriately classified as allowed uses, conditional uses and prohibited uses for the corresponding land use district as defined in Section 15-7-1 of the Land Development Code. Within each P.U.D. zone land use district, specified uses shall be allowed only as set forth in the approved Final P.U.D. Zoning Plan and development permit. Conditions may be imposed on such uses by the City, and any such conditions shall be set forth in the Final P.U.D. Zoning Plan.

4. Land Use District Density. The net density of a P.U.D. land use district zone is not necessarily required to precisely correspond with the net density of zoning on adjacent properties, but instead should reflect the existing character of the area or the character of the area proposed in the City Master Plan and other adopted plans. The density should result from the proper design of the P.U.D. including provision of adequate infrastructure, open space, amenities, complementary building types and design. Maximum net density, either expressed as maximum residential units or maximum square footage of non-residential uses shall be specified in the P.U.D. zone districts.

5. Open Space. At least twenty (20) percent of the total gross area of every P.U.D. shall consist of common open space. At least half of this common open space shall be developed for recreation which may include play fields, tennis courts, picnic sites, trails, fishing access and similar recreation sites for use by all P.U.D. residents. Provisions shall be made for permanent care and maintenance of open spaces according to the provisions in Section 15-16-10(F).

For residential P.U.D.s of less than five acres or non-residential P.U.D.s of any size, a fee-in-lieu of open space may be granted at the discretion of the City Council. This fee should be equal to the market rate of one-half ( $\frac{1}{2}$ ) of the required common open space land not provided. Any fee-in-lieu paid as a result of an open space requirement must be spent on park land purchases or improvements for City parks and recreation facilities.

6. Community Benefits. In return for flexibility in land use mix and design standards, the goal of a P.U.D. is to provide a higher quality of development than found in traditional zone districts. Every P.U.D. must consider and offer community benefits in the form of park land dedication, public recreation facilities including community centers, trails, greenbelts, natural and/or historic preservation areas, and other amenities which may be identified in the City Master Plan and other adopted plans, or which may be goals of the City Council.

7. P.U.D. Perimeter. The boundary between a P.U.D. and adjacent land uses shall provide an adequate transition between land uses.

8. Phasing of Development. Where a P.U.D. is developed in phases, a proportional amount of any required open space, recreation areas and other community benefits shall be included in each phase such that the project, as it is built, will comply with the overall density and open space requirements of this Code at the completion of each phase of development. Phasing shall be accomplished such that, with the completion of any phase of the development, it is consistent with the City Master Plan and other adopted plans.

Section 5. Chapter 15, Article 15, of the City Code of the City of Gunnison, is hereby amended as follows:

**15-15-7 Additional Procedures and Requirements for Planned Unit Development Zoning Districts.** An application for an amendment to the boundaries of zone districts, as depicted on the Official Zoning Map, to create a Planned Unit Development zone shall follow these additional procedures and submit additional information as follows.

A. P.U.D. Zoning District Application Review Procedures. Every P.U.D. shall be reviewed in two stages: the Zoning Plan and the Development Plan. The purpose of the P.U.D. Zoning Plan review shall be to:

1. Establish permissible type, location and densities of land uses;
2. Determine permissible design standards to be applied to P.U.D. development;
3. Determine compatibility of the P.U.D. proposal with the City Master Plan and other adopted plans and with the purposes of this Article; and,
4. Provide a basis for P.U.D. zoning.

B. Additional Application Contents. Additional material shall be submitted at defined stages in the application review process.

1. Preapplication Conference. In addition to the proposal requirements listed in Section 15-12-2.(B), for the Preapplication Conference listed in Article 15-15-3 (A), a conceptual drawing of the P.U.D. Zoning Plan shall be provided to the Community Development Director depicting:
  - a. topography of land to be developed;
  - b. existing and proposed major traffic circulation system with typical street widths;
  - c. proposed zoning, densities, types of uses and

their locations within the P.U.D.;

- d. proposed design standards to be applied to P.U.D. development;
- e. potential common open space areas and park land areas; and
- f. location of utilities and existing development on the land.

2. Zoning Plan Submittal. Upon submission of the application as defined in 15-15-3 (B), the applicant shall provide to the Community Development Director:

- a. The Minimum Contents listed in Section 15-15-4(A) and the Map Amendment information in Section 15-15-4(C);
- b. twenty (20) copies of the P.U.D. Zoning Plan map which shall be 24" x 36" in size, with North arrow and scale and with title and date in lower right corner at a scale of one (1) inch equals fifty (50) feet, or larger, which depicts the area within the boundaries of the proposed P.U.D. and which depicts all of the information as follows:

- i A Zoning Plan indicating the broad concept of the proposed development, the location of each use and the location of existing lots, blocks or other parcels within each area. The plan shall indicate:
  - (1) Generally, where each type of use is located within the P.U.D. and an indication of the total acreage which will be devoted to each use.
  - (2) Proposed districts labeled on the plan with the symbol of the most similar zoning classification in the Land Development Code. In the case of residential zone districts, the symbol shall be followed by a hyphen and a numerical representation of the maximum density allowed in that district. For example: A Single Family Residential District with a minimum lot size of 12,000 square feet would be labeled R1-12,000.
  - (3) Areas designated for residential uses shall also indicate the maximum number of dwelling units per gross acre permitted for each residential area including sizes of building lots and types of dwellings anticipated.

(4) The minimum acreage which will be dedicated to common open space, the proposed use and location of open space.

(5) Internal circulation systems: locations of arterial streets, collector streets, pedestrian and bike trails.

(6) The acreage and location of areas to be dedicated for school sites or other public uses.

(7) Descriptions of the general character of all proposed land use districts in the P.U.D. and plans showing the location and size of each district within the P.U.D.

(8) Provisions for water, irrigation ditches, sewer, refuse collection, stormwater collection, telephone, electricity, gas and cable television, if applicable.

(9) Development standards and other restrictions to be applied to each proposed district or reference to standards in similar zone districts contained in the Land Development Code which shall apply to each proposed use in particular areas, such as: building setbacks, height limits, access requirement and grade or slope restrictions, special provision addressing the Entrance Overlay District or other overlay districts, parking, landscaping and snow storage requirements and sign regulations.

(10) Written and graphic material demonstrating to the Planning Commission and City Council how modifications will produce a living environment, landscape quality and lifestyle better than that produced by the existing standards.

ii. A site topographic map showing at least two-foot contour intervals for slopes of ten (10) percent or less, five (5) foot contour intervals for slopes over ten (10) percent, major vegetation elements, streams, rivers, ditches and area subject to one-hundred (100) year flooding:

iii. A written statement of concept for the P.U.D. containing the following information:

(1) An explanation of the objectives to be achieved by the P.U.D. and a statement of purpose for each zone district within the P.U.D.

(2) A development schedule indicating the improvements included in each phase and the approximate dates when construction of the various stages of the P.U.D. are anticipated to begin and be completed.

(3) Copies of any special covenants, conditions and restrictions which will govern the use or occupancy of the P.U.D.; provided that the applicant may impose additional covenants, conditions and restrictions on any particular area in connection with the platting of such area.

(4) A statement by a licensed engineer which shall provide evidence of the following:

(a) Based on anticipated demand, the proposed water source is adequate to serve the P.U.D.

(b) Based on anticipated demand, the proposed method of sewage treatment and existing sewage treatment facilities are adequate to serve the P.U.D.

(c) The general manner in which storm drainage will be handled.

(d) The general manner in which provision will be made for any potential natural hazards in the area such as steep slopes, erosive soils, avalanche areas, landslide areas, floodplain areas and unstable soils.

(5) Easements showing vested legal access for ingress and egress from a public road to the P.U.D. in accordance with Article 11;

(6) Evidence that the P.U.D. has been designed with



consideration of the site's natural environment and the surrounding area and does not unreasonably destroy or displace wildlife, natural vegetation or unique natural or historic features; and,

(7) Any other information or exhibits which the applicant or the Community Development Director deems pertinent in evaluating the proposed P.U.D.

C. Application Review. Upon acceptance of the P.U.D. Zoning Plan application, a review of that application shall commence according to Sections 15-15-3 (C)-(G) and 15-12-4 through 15-12-7.

D. Filing of Final P.U.D. Zoning Plan. If a P.U.D. Zoning Plan is approved, a reproducible mylar copy shall be filed with the City Clerk and Department of Community Development in addition to those required documents listed in Section 15-12-7.

E. Development Plan. If a P.U.D. Zoning Plan falls within Chapter 16 and requires a subdivision approval as defined in Section 15-16-3, within one year of a P.U.D. Zoning Plan approval, the applicant shall submit a Development Plan for the P.U.D. according to the requirements of Article 16 and it shall be processed according the requirements of Article 12. If the developer cannot submit a Development Plan within one year of the Zoning Plan approval, the developer shall submit a letter requesting an extension of time to the Community Development Director prior to expiration of the one year period. The Community Development Director may grant extensions for reasonable waiver requests for up to a total of three years from the date of the Zoning Plan approval. Should a developer not be able to submit a Development Plan in a timely manner, the City has the right to rezone the property in accordance with this Land Development Code.

F. Changes. The Planned Unit Development shall be developed only according to the approved and recorded Zoning Plan and Development Plan and all supporting data. The recorded Final P.U.D. Zoning Plan and Development Plan and supporting data together with all recorded amendments, shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and location of structures in the P.U.D. as set forth therein.

Changes to the recorded Final P.U.D. Zoning Plan may be made as follows:

1. Major Changes. Changes which alter the concept or intent of the Planned Unit Development including increases in density, changes in the height of buildings, reductions in proposed open space, changes in the development sequencing, changes in road standards, or changes in the final governing agreements, provisions, or covenants may be approved only by submission and reconsideration of a new P.U.D. Zoning Plan and supporting data.

a. If major changes are proposed , a new public hearing shall be required during resubmission of the P.U.D. Zoning Plan.

b. All changes to the first recorded Final P.U.D.

Zoning Plan shall be recorded with the Gunnison County Clerk and Recorder as amendments to the Final P.U.D. Zoning Plan except as provided in the following paragraph 2.

2. Insubstantial Changes. The Community Development Director may approve changes in the Planned Unit Development which insubstantially change the concept, intent or substance of the development. Insubstantial changes shall be limited to changes addressing the engineering or technical constraints discovered during the development which could not be anticipated during the original approval process, or any other change which has no material effect on the character of the approved P.U.D. Zoning Plan, the representations made by the applicant or the conditions of the approval.

Section 6. In order to eliminate inconsistencies and conflicting provisions within Article 16, Chapter 15, of the City Code of the City of Gunnison, the following sections and subsections are amended to read as follow:

The title of Article 16, of Chapter 15, shall be changed to: Subdivision/P.U.D. Subdivision.

#### **ARTICLE 16 SUBDIVISION/P.U.D. SUBDIVISION**

15-16-1	Purpose
15-16-2	Applicability
15-16-3	Overview of Subdivision Procedure
15-16-4	Subdivision Exemption
15-16-5	Sketch Plan Review
15-16-6	Preliminary Plat Review
15-16-7	Final Plat Review
15-16-8	Subdivision Review Standards
15-16-9	Planned Unit Development Subdivision Review Standards
15-16-10	Subdivision Improvements Agreement
15-16-11	Vacation of Recorded Plat, Right-of-Way, or Easement

#### **15-16-3 Overview of Subdivision Procedure.**

B. Planned Unit Development Subdivision (P.U.D.-S). The Commission may authorize a subdivision to be developed as a planned unit development subdivision (P.U.D.) A P.U.D.-S is a form of subdivision development in which certain zone district and improvement standards may be applied more flexibly in order to encourage innovative land planning practices and to achieve desired public purposes as determined by the Commission.

1. Procedures. A subdivision which is developed as a P.U.D.-S shall comply with all of the procedures specified herein which as applicable to that type of subdivision.

2. Application Contents. The application contents for the P.U.D.-S shall be the same as those for a subdivision, provided that as part of the sketch plan and preliminary plat applications, the applicant's narrative also shall describe how the proposed development departs from the City's traditional development standards and how, on balance, it improves upon what otherwise would be developed on the property and achieves the purposes of P.U.D.-S.

3. Standards. The P.U.D.-S shall comply with the standards of Section 15-16-9, Planned Unit Development Subdivision Review

Standards.

4. Public Action By Commission. The Planning and Zoning Commission shall conduct a meeting to review the conformance of the application with all applicable provisions of this Code. The Commission shall approve, approve with conditions, or deny the application, or remand it to the applicant with instructions for modification or additional information or action. P.U.D.-S status is determined by the Commission at this time.

**15-16-9 Planned Unit Development Subdivision Review Standards.** A Planned Unit Development Subdivision (P.U.D.-S) may be allowed to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to encourage energy efficient and affordable construction, to minimize disturbance of the property's sensitive or open lands, to provide for exceptional landscaping of lands, especially the City's entrances, or to allow for the provision of public recreational uses or access to public waters. In order to grant a P.U.D.-S, the Commission must find that the development accomplishes some or all of the above and the achievement of broader community goals outweighs the application of specific standards. P.U.D. Subdivision will be reviewed on a site-specific basis. The following standards apply to a P.U.D.-S.

A. Location. A P.U.D.-S may be developed on any property within the City of Gunnison.

B. Permitted and Conditional Uses. The P.U.D.-S shall only contain uses designated as permitted uses or conditional uses in the underlying zone district. Developments which propose to control uses other than in the method provided for in the underlying zone district must apply for a Planned Unit Development Zone District change as defined in 15-6-6.

C. Dimensional Standards. The P.U.D.-S shall comply with the maximum height and minimum floor area standards of the underlying zone district. The Commission may authorize the other dimensional standards of the P.U.D.-S to be varied if the P.U.D.-S achieves broader public purposes, as noted in this section.

1. Density and Lot Coverage. The maximum density or lot coverage of the underlying zone district, whether commercial or residential, may be increased by up to twenty-five percent (25%). P.U.D. Zone Districts as provided for under Section 15-6-6 must establish density with the approved P.U.D. Zoning Plan and are not eligible for any additional increase as a result of a subdivision process.

2. Minimum Lot Size, Minimum Lot Frontage, Minimum Setbacks and Minimum Building Width. The minimum lot size, minimum lot frontage, minimum setbacks and minimum building width may be reduced. Zero lot line development shall be permitted.

3. Maximum Lot Coverage and Minimum Landscape Area. The maximum coverage structures and uncovered parking and access may be increased and the minimum landscape area may be reduced on individual lots when all of the following requirements are met:

a. Compliance for Entire P.U.D.-S. The coverage and landscape standards of the underlying zone district are complied with for the P.U.D.-S as an entirety.

b. Access and Maintenance. The landscape area can be conveniently accessed from all structures within the P.U.D.-S and will be maintained in

common by all owners within the P.U.D.-S as specified in Section 15-16-10 (F), Common Property in a P.U.D..

c. Buffers. Sufficient landscaping is provided within and around the perimeter of the P.U.D.-S to buffer differing uses from one another, to soften the adverse effects of noise and glare upon neighbors, and to maintain privacy.

d. General Standards. The P.U.D.-S complies with all applicable standards of Section 15-9-4, Landscaping Standards.

D. Parking. The off-street parking standards applicable to the P.U.D.-S shall be determined based on land use. The off-street parking standards may be reduced if the applicant demonstrates that:

1. Sharing Parking. Because of shared parking arrangements among uses within the P.U.D.-S which do not require peak parking at the same time, the parking needs of residents, guests and employees of the project will be met; or

2. Actual Needs. The actual parking needs of residents, guests, and employees of the project will be less than those set by the standards of this Land Development Code. The applicant may commit to provide specialized transportation services as a method of complying with this standard.

E. Signs. The sign standards applicable to the P.U.D.-S shall be as specified in Section 15-10-6, Sign Standards, unless the applicant submits a master sign plan for the P.U.D.-S which is found to be an appropriate plan for the P.U.D.-S and provides the minimum sign area necessary to direct users to and within the property.

F. Improvements. The improvements standards applicable to the P.U.D.-S shall be as specified in Article 11, Improvements Standards. Provided, however, the P.U.D.-S may deviate from the City's street standards, so the P.U.D.-S achieves greater efficiency of infrastructure design and installation through clustered or compact forms of development and provides incentives to the private sector to create affordable housing when the following minimum design principles are followed:

1. Access. Safe, convenient access, using the minimum practical roadway length, shall be provided to all areas of the proposed development by a public right-of-way, private vehicular or pedestrian way, or a commonly held easement.

2. Emergency Vehicles. Adequate space shall be provided to permit access by emergency vehicles.

3. Direct Access. Where a proposed P.U.D.-S abuts a major collector, arterial road or highway, direct access to such road or highway from individual lots, units or buildings shall be permitted only for non-residential uses. Consolidated access from such roads shall be provided for clusters of non-residential uses.

4. Minor Streets. Minor streets within the P.U.D.-S shall not be directly connected with streets outside of the development unless the City determines such connections are necessary to maintain the City's traffic network.

5. Principal Access Points. Principal vehicular access points

shall be designed to provide for smooth traffic flow with controlled turning movements. Merging and turnout lanes and/or traffic dividers shall be installed where existing or anticipated heavy traffic flows indicate the need.

6. Walkways. Internal walkways shall form a logical, safe and convenient system for pedestrian access to all dwelling units and common project facilities, with appropriate connections provided to off-site locations.

7. Snow Storage. Adequate areas shall be provided to store snow removed from the street network and from off-street parking areas.

G. Master Plan. The proposed P.U.D.-S shall carry out the purpose and spirit of the Master Plan and conform with that Plan's applicable intent statements and specific directions. It shall be designed to be compatible with surrounding land uses, to protect neighbors from undesirable noise, glare and shadows and shall not cause adverse effects on their privacy, solar access and views.

H. Other Standards Applicable to Subdivision. The P.U.D.-S shall comply with the other applicable standards of Section 15-16-8, Subdivision Review Standards, unless otherwise provided herein.

#### **15-16-10 Subdivision Improvements Agreement**

F. Common Property in a P.U.D.-S

1. Ownership Covenant. Where there is more than one (1) ownership interest in the land upon which the P.U.D.-S is to be situated or in the above airspace and all such interests are not coextensive, the P.U.D.-S approval shall be conditioned upon a covenant running with the land that establishes an organization among all owners to own and maintain common open space, if any.

2. Failure to Maintain. In the event that the organization, or any successor organization, established to own and maintain common space, fails at any time after establishment of the P.U.D.-S to maintain the common open space in reasonable order and condition in accordance with the approved P.U.D.-S, the City may serve written notice upon such organization or upon the residents of the P.U.D.-S setting forth the manner in which the organization has failed to maintain the common open space in reasonable conditions. Said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place a hearing thereon, which shall be within (14) days of the notice.

3. Remedies. At such hearing the City may modify the terms of the original notice and may give an extension of time within which such deficiencies shall be cured. If the deficiencies set forth in the original notice or in the modification thereof are not cured within said thirty (30) days or any extension thereof, the City may enter upon said common space and maintain the same for a period of one (1) year. The cost of such maintenance by the City shall be paid by the owners of the properties within the P.U.D.-S who have the right of enjoyment of the common open space; and any unpaid assessment shall become a tax lien on said properties. Said entry and maintenance shall not vest in the public any right to use the common open space except when the same voluntarily is dedicated to the public by the owner(s).

4. Filing of Lien. The City shall file a notice of such lien in the office of the Clerk and Recorder of Gunnison County upon the properties affected by such lien, and shall certify such unpaid assessment to the Board of County Commissioners and to the Treasurer of Gunnison County, for collection, enforcement, and remittance in the same manner provided by law for general property taxes.

5. Hearing. Prior to the expiration of said year, the City shall, upon its initiative or upon the written request of the organization responsible for the maintenance of the common open space, hold a public hearing, upon notice to such organization and the residents of the P.U.D.-S to show cause why such maintenance by the City shall not, at the election of the City, continue for a succeeding year.

6. Determinations. If the City determines that such organization is ready and able to maintain the common open space in reasonable condition, the City shall cease to maintain the common open space at the end of said year. If the City determines that such organization is not ready to maintain the common open space in a reasonable condition, the City, in its discretion, may continue to maintain said common open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter.

7. Provisions Run in Favor of City. To further the mutual interest of the residents, occupants, and owners of a P.U.D.-S and the public in the preservation of the integrity of the P.U.D.-S, the provisions of the P.U.D.-S relating to the use of the land, the location of common open space and the maintenance of common open space shall run in favor of the City and shall be enforceable at law or in equity by the City without limitation on any power or regulation otherwise granted by law.

8. Provision Run in Favor of Residents. All provisions of the P.U.D.-S also shall run in favor of the residents, occupants, and owners of the P.U.D.-S, but only to the extent expressly provided in the final approval and in accordance with the terms of the P.U.D.-S. Said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or in equity by residents, occupants, or owners acting individually, jointly, or through an organization authorized to act on their behalf.

9. Modification and Release. All provisions of the P.U.D.-S enforceable by the City may be modified, removed, or released by the City, subject to the following:

a. Not Affect the Rights of the Residents. No modification, removal, or release of the provisions of the P.U.D.-S by the City shall affect the rights of the residents, occupants, and owners of the P.U.D.-S to maintain and enforce those provisions at law or in equity.

b. No Adverse Affects. No substantial modifications, removals, or releases of the provisions of the P.U.D.-S by the City shall be permitted except upon a finding by the City, following a public hearing called, that the modification, removal, or release:

(1) Efficient Development of P.U.D.-S is consistent with the efficient development and reservation

of the entire P.U.D.-S;

(2) No Adverse Effects. Does not effect in a substantially adverse manner, the enjoyment of land abutting upon or across a street from the P.U.D.-S, or the public interest; and,

(3) No Special Benefit. Is not granted solely to confer a special benefit upon any person.

c. Not Affect the Rights of the City. Residents and owners of the P.U.D.-S may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove, or release their rights to enforce the provisions of the P.U.D.-S, but no such action shall affect the right of the City to enforce the provisions of the P.U.D.-S.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 27th day of February, 2001, on first reading, and introduced, read, and adopted on second and final reading this 13th day of March, 2001.

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Mayor

ATTEST:

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City Clerk